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ATTORNEY DOCKET NO.

- EXAMINER

08/630,383

APPLICATION NO.

04/10/96

POULETTY

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P A-55320-2/BI
ART UNIT PAPER NUMBER

25

HM22/1004 FLEHR HOHBACH TEST ALBRITTON AND HERBERT SUITE 3400

FOUR EMBARCADERO CENTER SAN FRANCISCO CA 94111-4187

FILING DATE

DATE MANUEDWADRON, R

1644

10/04/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks** 

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## Application No.

Office Action Summary

08/630,383 Examiner

Ron Schwadron, Ph.D.

Group Art Unit 1644

Pouletty et al.

S a service to communication(s) filed on	·
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☐ This action is <b>FINAL</b> .	cept for formal matters, prosecution as to the merits is closed le, 1935 C.D. 11; 453 O.G. 213.
in accordance with the practice under an post-	
statutory period for response to this action	is set to expire
Disposition of Claims	is/are pending in the application.
	is/are pending in the application. is/are withdrawn from consideration.
1-1-1-1	
X Claims 1-11 and 13	are subject to restriction or election requirement.
☐ The specification is objected to by the Examiner ☐ The oath or declaration is objected to by the Ex  Priority under 35 U.S.C. § 119 ☐ Acknowledgement is made of a claim for foreig ☐ All ☐ Some* ☐ None of the CERTIFIED ☐ received. ☐ received in Application No. (Series Code) ☐ received in this national stage application *Certified copies not received: ☐ Acknowledgement is made of a claim for dome.	aminer.  In priority under 35 U.S.C. § 119(a)-(d).  O copies of the priority documents have been  (Serial Number)  In from the International Bureau (PCT Rule 17.2(a)).
Attachment(s)  Notice of References Cited, PTO-892  Information Disclosure Statement(s), PTO-144  Interview Summary, PTO-413  Notice of Draftsperson's Patent Drawing Revie	ew, PTO-948
SEE OFFICE A	CTION ON THE FOLLOWING PAGES
SEE OFFICE A	

Serial No. 08/630383

Art Unit 1644

1. Claims 1-11,13 are under consideration.

- 2. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
- I. Claims 1-11 are drawn to a method of killing a target cell, classified in Class 424 subclass 193.1.
- II. Claim 13 is drawn to a method of reducing the concentration of a soluble target molecule in the blood stream., classified in Class 424 subclass 158.1.
- 3. The inventions are distinct, each from the other because of the following reasons:
- 4. Inventions I and II are different methods that use different ingredients to achieve different goals. Invention I is drawn to a method of killing a target cell, while invention II is drawn to a method of reducing the concentration of a soluble target molecule in the blood stream. Invention II uses a conjugate containing an antibody against a soluble molecule not used in the method of invention I. Therefore they are novel and unobvious in view of each other and are patentably distinct.
- 5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II and Groups I and II have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.
- 6. If applicant elects Group I, the following species election is required.

This application contains claims directed to the following patentably distinct species of the claimed invention.

The method of claim 1 or 9 which uses a selective moiety wherein the selective moiety is

A)SEC1

B)SEA

C)ExFT

D)TSST1

Serial No. 08/630383 Art Unit 1644

E)Mls

F)minor histocompatibility antigen

G)a selective moiety that binds to anti- $\alpha$  gal antibodies (eg.  $\alpha$  gal)

H)blood group antigen

I)a portion of a protein vaccine.

These molecules are structurally and functionally distinct.

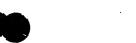
Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

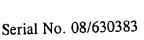
Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.
- 8. Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers should be faxed to Group 1600 at (703) 308-4242.





Art Unit 1644

Any inquiry concerning this communication or earlier communications from the Examiner 9. should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Monday through Thursday from 7:30 to 6:00. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ms Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1640 receptionist whose telephone number is (703) 308-0196.

Ron Schwadron, Ph.D. Primary Examiner

Art Unit 1644

RONALD B. SCHWADRON PRIMARY EXAMINER GROUP 1898 (600)